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May 12, 2014

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

VIA FACSIMILE: (202) 219-3923

Re: MUR 6798; Complaint against The Fund for Louisiana's Future, et al.

Dear Mr. Jordan:

We are writing this letter on behalf of The Fund for Louisiana's Future ("FFLF"), Courtney Guastella, and Lisa Spies (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by the Campaign Legal Center and Democracy 21 ("Complainants"). The Complaint was clearly filed for publicity and political gain, and is based exclusively on speculation and innuendo. The asserted facts on their face do not support a reason to believe finding in this matter, and the Complaint should be dismissed.

The Commission may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). See 11 C.F.R. § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

In this case, despite Complainants' vast resources and motivation to create some sort of scenario in the Complaint that, if proven, would constitute a violation of the Act by Respondents, it is unable to provide any evidence that Respondents have violated the Act other than its own self-serving and politically charged conclusions about Respondents' fundraising activities. It should be noted that Complainants frequently make public their disagreements with First

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Amendment protections for political speech¹ and the organizations and their staff are committed advocates for restrictions on political speech. As such, Complainants raise funds for their pro-regulatory lobbying efforts through periodically filing FEC complaints hyperbolically asserting violations of the Act by (usually) conservative-leaning organizations and candidates. We note this ideological agenda and practice not to pass judgment upon Complainants' business model, but instead to reinforce Complainants' motivation in manufacturing the vast majority of their complaints with the Commission.

The current Complaint is no different, as it once again relies on unsupported allegations and innuendo, this time from several news articles, FFLF's financial reports, and Complainants' own politically motivated and legally flawed conclusions about FFLF's fundraising consultants. Complainants' accusations are without legal or factual support. Each spurious allegation is addressed in turn below.

Analysis

Courtney Guastella and Lisa Spies are Prominent Professional Fundraising Consultants with Numerous Political and Nonprofit Clients

Before focusing on the crux of Complainants' flawed arguments, it is important to address their suggestion that Courtney Guastella and Lisa Spies are "employed" by David Vitter for U.S. Senate (the "Campaign") and FFLF, and that they only do work for these committees. Complaint ¶ 6. This could not be further from the truth. Ms. Guastella and Ms. Spies are professional fundraising consultants, each of whom run separate consulting businesses with multiple clients—ranging from Presidential campaigns and federal and state candidates and political action committees, to charitable organizations such as Susan G. Komen's Honoring the Promise and the Humane Society of the United States. From 2011-2013, the period cited by Complainants (Complaint ¶ 7), Ms. Guastella and Ms. Spies did fundraising consulting work for over ten clients.

Importantly, Ms. Guastella and Ms. Spies do not have an "employment" relationship with any of these clients. Rather, they are independent contractors, as they have in place comprehensive independent contractor agreements with all of their clients. Many of these agreements contain strict firewall provisions, whereby Ms. Spies and Ms. Guastella are not permitted to solicit funds on behalf of other organizations when engaging in fundraising activities for any given client. These are precisely the types of agreements they have in place

¹ See Paul Blumenthal, *Super PAC Corporate Donations: Not All Contributions Are Equal*, HUFFINGTON POST, Aug. 11, 2011, available at http://www.huffingtonpost.com/2011/08/11/super-pac-corporate-donations_n_924865.html. ("We are just seeing the beginning of what could turn out to be an onslaught of corporate money being injected into our congressional and presidential campaigns," Democracy 21 President Fred Wertheimer told The Huffington Post. "The *Citizens United* decision has opened up Pandora's Box here.") and *Id.* ("The Campaign Legal Center's FEC Program Director, Paul S. Ryan, previously told The Huffington Post, 'There's a big difference between humans and corporations that the Supreme Court ignored in their *Citizens United* decision.'")

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with the Campaign and FFLF—agreements that prohibit Ms. Guastella and Ms. Spies from soliciting funds for FFLF when they are working in their capacity as fundraising consultants for the Campaign, and forbid them from soliciting funds for the Campaign when in their capacity as fundraising consultants for FFLF.

Complainants also maintain that “Senator Vitter... relies exclusively on Ms. Guastella and Ms. Spies to raise funds for his authorized campaign committee and leadership PAC.” Complaint ¶ 7. In making this point, Complainants reference the amounts Ms. Guastella and Ms. Spies have received in consulting fees from David Vitter for U.S. Senate and Senator Vitter’s Leadership PAC, as if these figures have some sort of relevance or provide support for their spurious allegations in the Complaint. They do not. Regardless of whether Senator Vitter relies on Ms. Guastella and Ms. Spies for his campaign and leadership PAC fundraising, these efforts and their independent consulting work for FFLF account for only a fraction of the fundraising consulting business they do overall. As mentioned above, both Ms. Guastella and Ms. Spies operate separate and successful fundraising consulting businesses that have served multiple clients during the period cited by Complainants. In fact, numerous publications have highlighted Ms. Spies’ successes in fundraising for her various clients, including as Director of Jewish Outreach for Romney for President and Women for Romney Victory (but not referencing her less prominent role as a consultant for Senator Vitter).²

Courtney Guastella and Lisa Spies Have Not Solicited “Soft Money” for the Campaign Just Because They are Also Consultants for FFLF

Complainants state that “[u]nder the FEC’s rules defining when someone is considered an agent of a federal candidate or officeholder, Courtney Guastella and Lisa Spies had actual authority from Senator Vitter to solicit contributions to support his election and any fundraising they conduct as agents of Senator Vitter must comply with 2 U.S.C. 441i(e) and the Commission regulations prohibiting soft money fundraising by federal officeholders and candidates.” Complaint at ¶ 20. Complainants speciously argue that “there is reason to believe that Ms. Guastella and Ms. Spies violated the Act and Commission regulations when, as agents of Senator Vitter, they solicited contributions in a manner prohibited by 2 U.S.C. § 441i(e) and 11 C.F.R. §§ 300.61 and 300.62.” Complaint at ¶ 21. In making such flawed arguments, Complainants are saying that prominent professional fundraising consultants can never take off their candidate “hats” if one of their clients happens to be a federal candidate. If this was true, both Ms. Guastella and Ms. Spies would have been raising money for Romney for President every time they did work for their other clients in 2011 and 2012. Such contentions are irrational and without support in law.

² See Ari Werth interview with Lisa Spies, *Mitt’s Matchmaker Lisa Spies Looks Back and Ahead (INTERVIEW)*, THE ALGEMEINER, Nov. 29, 2012, available at <http://www.algemeiner.com/2012/11/29/mitt%E2%80%99s-matchmaker-lisa-spies-looks-back-and-ahead-interview/> (attached as Exhibit A); see also Michelle Cottle, *Female Fundraisers Aid Super PACs*, Newsweek, July 16, 2012, available at <http://www.newsweek.com/female-fundraisers-aid-super-pacs-65531> (attached as Exhibit B).

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Complainants then assert without providing any facts, that "[b]ased on the facts, Ms. Guastella and Ms. Spies cannot credibly argue that they had shed their 'candidate hats' and were not in any way acting 'on behalf of' Senator Vitter." They irrelevantly note that FFLF "is expressly dedicated to electing Senator Vitter and Ms. Guastella and Ms. Spies have no organizational attachment to, or interest in, FLF that is independent from Senator Vitter," and that they "were raising soft money for FLF for the express purpose of electing Senator Vitter, the candidate from whom they received actual authority to solicit contributions." Complaint at ¶ 22-23.

This line of reasoning is not supported by any reasonable reading of the Act, the Commission's regulations, or any relevant case law or Commission precedent. As an initial matter, Complainants' allegation that "Ms. Guastella and Ms. Spies have no organizational attachment to, or interest in, FLF that is independent from Senator Vitter" (Complaint at ¶ 22) is factually inaccurate. It is equally baseless for Complainants to assert that Ms. Guastella and Ms. Spies "do not have a legitimate and separate principal-agent relationship with FLF." Complaint at ¶ 23.

First, both Ms. Guastella and Ms. Spies have separate written independent contractor agreements in place with FFLF, which explicitly state that they will not solicit contributions for their other clients while acting as FFLF's agents. The existence of such comprehensive independent contractor agreements hardly constitutes "no organizational attachment to, or interest in" FFLF, or suggests the absence of a "principal-agent" relationship with FLF. To the contrary, there is a legally binding contractual agreement between Ms. Guastella and Ms. Spies and FFLF—agreements that make clear that when Ms. Guastella or Ms. Spies are raising money for FFLF, they are agents of FFLF and FFLF only, and FFLF is their principal.

Second, FFLF is independent from Senator Vitter, so it is both factually and legally inaccurate for Complainants to say that Ms. Guastella and Ms. Spies have no interest in or attachment to FFLF "that is independent from Senator Vitter." Complaint at ¶ 22. FFLF is registered with the Commission as an independent expenditure-only committee, and is therefore, by definition, independent from Senator Vitter's campaign. In the supplement to its Form 1 Statement of Organization filed on January 23, 2013, it clearly states that FFLF will "not use [its] funds to make contributions, whether direct, in-kind, or via coordinate communications, to federal candidates or committees."³ Its sole purpose is to make independent expenditures. The Supreme Court has made patently clear that "[b]y definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate." *Citizens United v. FEC*, 558 U.S. 310, 360 (2010). Ms. Guastella and Ms. Spies' independent contractor relationships with FFLF are therefore fully independent from Senator Vitter, the Campaign and his leadership PAC. Complainants' arguments in this respect are based solely on speculation and innuendo and should be promptly dismissed.

³ See The Fund for Louisiana's Future, Statement of Organization Supplement, filed Jan. 23, 2013.

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Complainants also suggest that because "FLF is expressly dedicated to electing Senator Vitter," that Ms. Guastella and Ms. Spies' work for FFLF is "simply an extension of their work for Senator Vitter." Complaint at ¶ 22-23. This argument has no grounding in actual law. In fact, this line of reasoning was summarily dismissed as recently as this month by a federal court in Louisiana. In rejecting the argument that FFLF is coordinated with Senator Vitter simply because FFLF was organized to support him, the Eastern District of Louisiana stated that such "logic is unrealistic."⁴ Furthermore, in open court, Judge Martin L. C. Feldman dismissed the argument that having shared fundraisers between Senator Vitter's campaign and FFLF created any sort of coordination in and of itself, or jeopardized the independence of FFLF. The Commission should follow the Eastern District of Louisiana's reasoning and reject Complainants' flawed argument that Ms. Guastella and Ms. Spies' work for FFLF was "an extension of their work for Senator Vitter" merely because "FLF is expressly dedicated to electing Senator Vitter." There is simply no part of the Act or Commission regulations, or any advisory opinion or enforcement proceeding that supports this conclusion. Instead, Complainants' conclusions in this regard are based on mere conjecture.

Ms. Guastella and Ms. Spies are NOT "Agents" of the Campaign when Operating as Fundraising Consultants for FFLF

Complainants' entire argument relies on the false premise that political fundraising consultants are always acting as "agents" for all of their clients all of the time. Complainants apply this flawed rationale to support their conclusion that Ms. Guastella and Ms. Spies could not have possibly "shed their 'candidate hats'" (Complaint at ¶ 22) when raising money for FFLF, and that they are "therefore Senator Vitter's 'agents' and have violated federal law by soliciting soft money contributions to benefit FLF." Complaint at ¶ 23. This contention is absurd on its face and based solely on legal theories fabricated by Complainants out of whole cloth.

⁴ *Fund for Louisiana's Future v. La. Bd. of Ethics, et al.*, 2014 U.S. Dist. LEXIS 61381, *31, n. 8 (E.D. La., May 2, 2014). In rejecting the same type of argument that Complainants' make in the Complaint, Judge Martin L. C. Feldman of the Eastern District of Louisiana explained:

The defendants appear to suggest that a political committee cannot be considered independent if it was formed or acts to advance a particular candidate. Defendants' logic is unrealistic. The Second Circuit rejected outright the district court's observation that "so-called independent expenditure-only committees that have only one purpose-advancing a single candidacy at a single point in time-are not truly independent as a matter of law"; "[n]ot so", the Second Circuit observed, reasoning instead that it is the "absence of prearrangement and coordination" with a candidate [that] are the hallmarks of committee independence." *New York Progress and Protection PAC*, 733 F.3d at 488 n.3 (citing *Citizens United and Buckley*). Thus, "[a]n independent committee's choice to advocate on behalf of a single candidate, and its formation after that candidate is nominated, are irrelevant." *Id.*

Id.

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The Commission clearly stated in its 2006 *Final Rules on Definition of 'Agent' for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures* that:

the current regulations also preserve the ability of individuals to solicit funds on behalf of multiple entities...BCRA does not prohibit individuals who are agents of [Federal officeholders, candidates, and national party committees] from also raising non-Federal funds for other political parties or outside groups. As the Supreme Court made clear in *McConnell*, even 'party officials may solicit soft money in their unofficial capacities.' *McConnell*, 504 U.S. at 159-61. The Commission recognized in the *Soft Money Final Rules* that 'individuals, such as State party chairmen and chairwomen, who also serve as members of their national party committees, can, consistent with BCRA, wear multiple hats, and can raise non-Federal funds for their State party organizations without violating the prohibition against non-Federal fundraising by national parties.' *Id.*; see also Restatement 13 ('merely acting in a manner that benefits another is not necessarily acting on behalf of that person.').

71 Fed. Reg. 4975, 4979 (Jan. 31, 2006).

As so-called support for their argument, Complainants cite two Commission advisory opinions, neither of which are helpful to their cause. Complainants first discuss Advisory Opinion 2003-10, suggesting that the Commission's reason for permitting Senator Harry Reid's son to raise hard money for his father's campaign and non-federal funds for the Nevada Democratic Party was that the funds he raised for the Party "could not, under federal law, benefit his father's re-election effort." Complaint at ¶ 16(i). This entirely mischaracterizes the Commission's conclusion and rationale in AO 2003-10. The Commission's decision in AO 2003-10 did not at all hinge on whether the money raised by Reid's son to the state party would benefit his father's candidacy. To the contrary, in contemplating "two explicit agency relationships," one between Reid's son and his father's campaign, and the other between Reid's son and the state party, the Commission concluded that:

As long as Commissioner Reid solicits non-federal funds in his own capacity as a state official of Nevada and exclusively on behalf of the State Party, and not on the authority of any Federal candidate or officeholder, including Senator Reid, the fundraising activities will not be attributed to any Federal candidate or officeholder.... Commissioner Reid, as a prominent state official in Nevada, may at different times act in his capacity as an agent on behalf of the State Party and act as an agent on behalf of Senator Reid. If his fundraising is "exclusively on behalf of the Party" and

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not on the authority of Senator Reid, Commissioner Reid may raise non-federal funds for the State Party.

AO 2003-10 at 5.

Complainants next cite AO 2007-05, in which the Commission permitted Congressman Denny Rehberg's Chief of Staff, Erik Iverson, to fundraise as an agent for Rehberg's campaign and to separately raise soft money as an agent for the Montana Republican State Central Committee. Complainants once again misrepresent the Commission's legal rationale in this advisory opinion, stating that "given Mr. Iverson's Party role and the fact that no funds raised could assist Congressman Rehberg's election, the Commission found Mr. Erikson [sic] acted 'exclusively' on the Party's behalf." Complaint at ¶ 16(ii).

As mentioned above, the Commission's decision in this advisory opinion was not contingent on whether the money raised by Iverson to the state party "could assist Congressman Rehberg's election." Rather, the Commission concluded that Iverson could "solicit, direct, and spend non-Federal funds on behalf of the State Committee, even if he becomes an agent of Congressman Rehberg for fundraising purposes, as long as Mr. Iverson solicits non-federal funds in his own capacity and exclusively on behalf of the State Committee, and not on the authority of any Federal candidate or officeholder, including Congressman Rehberg." AO 2007-05 at 4.

In making this conclusion, the Commission reiterated its line of reasoning from AO 2003-10, stating:

The Commission has explained that the purpose of the requirement that an agent act on behalf of an officeholder or candidate to be subject to the Act's prohibitions in 2 U.S.C. 441i(e)(1) was "to preserve an individual's ability to raise funds for multiple organizations." While the Act restricts the ability of Federal officeholders, candidates, and national party committees to raise non-Federal funds, it "does not prohibit individuals who are agents of the foregoing from also raising non-Federal funds for other political parties or outside groups." (internal citations omitted).

Id.

If anything, Complainant's cited advisory opinions confirm that Ms. Guastella and Ms. Spies' separate agency relationships with the Campaign and FFLP are perfectly acceptable under the Act and Commission's regulations. As discussed above, Ms. Guastella and Ms. Spies both have separate independent contractor agreements with the Campaign, which grant them actual authority to raise federally regulated funds at Campaign events or while working in their capacity as fundraising consultants for the Campaign. In those instances, Ms. Guastella and Ms. Spies are agents for the Campaign, and only the Campaign, and the Campaign is their principal. Likewise, Ms. Spies and Ms. Guastella have separate independent contractor agreements with FFLP, which

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grant them actual authority to raise nonfederal funds at FFLF events, such as the alligator hunt referenced by Complainants, or while working in their capacity as fundraising consultants for FFLF. In these cases, Ms. Guastella and Ms. Spies are agents for FFLF, and FFLF only, and FFLF is their principal. Moreover, as mentioned earlier, their independent contractor agreements with the Campaign and FFLF contain strict provisions whereby they are prohibited from raising money for their other clients while acting as agents for either the Campaign or FFLF.

Complainants have provided no evidence to refute this reality. Instead, they offer only their assumptions about contractual relationships to which they are not privy. Under Complainants' flawed rationale, Ms. Guastella and Ms. Spies would be raising money for the Campaign every time they organized a fundraising event for their other clients, because, in Complainants' view, they can never take off their David Vitter for U.S. Senate "hat." To illustrate the irrationality of Complainants' theory, under it, Ms. Spies would have been raising prohibited nonfederal funds for David Vitter for U.S. Senate every time she held fundraisers for her clients the Republican Jewish Coalition, a 501(c)(4) nonprofit organization, or Susan G. Komen's Honoring the Promise, a 501(c)(3) charity, because these organizations may accept corporate contributions, and because Ms. Spies was, at some point, given "actual authority" to raise funds for David Vitter for U.S. Senate at Campaign events. Moreover, Ms. Spies would be raising money for the Campaign when holding fundraisers for Terry Branstad's gubernatorial campaign in Iowa, Mike Pence's gubernatorial campaign in Indiana, John Thune's campaign for Senate in South Dakota, Mead Treadwell's campaign for Senate in Alaska, and so on. Such arguments strain credibility. The Commission should immediately dismiss such frivolous and baseless theories.

FFLF's Event Invitation and Website Comply with the Act and the Commission's Regulations

Invitation for "Louisiana Bayou Weekend" Event

The Complaint alleges that Senator Vitter and his agents, Ms. Guastella and Ms. Spies violated the Act by soliciting contributions in excess of the federal contribution limits and from sources prohibited by federal law on behalf of FFLF. The allegation is based on Senator Vitter's designation as a "special guest" in the pre-event publicity for a fundraising event benefitting FFLF. The Complaint alleges that a notice to the recipients of the state contribution limits, coupled with the failure to include a disclaimer stating that Senator Vitter was only soliciting funds that comply with the federal amount limitations and source prohibitions, constituted an impermissible solicitation of funds prohibited by the Act.

The invitation was for a fundraising event, the "Louisiana Bayou Weekend," benefitting FFLF. The top of the invitation clearly stated "The Fund for Louisiana's Future Invites You To A Louisiana Bayou Weekend," and listed Senator Vitter as a "special guest." The lower half of the invitation included a solicitation of \$5,000 per person to attend the event.

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In addition, the invitation included a notice that stated:

Contributions to The Fund for Louisiana's Future are not deductible as charitable contributions for federal income tax purposes. Contributions from foreign nationals are prohibited. Federal government contractors should consult counsel prior to making a contribution to the Fund for Louisiana's Future. The Fund for Louisiana's Future is registered with the Federal Election Commission as an independent expenditure-only committee and the Louisiana Board of Ethics as a state PAC. The Fund for Louisiana's Future may accept contributions up to \$100,000 per election cycle from individuals, corporations, and other organizations. The Fund for Louisiana's Future's spending is independent, and it does not make contributions to, or coordinate its spending with, any candidates or political parties.

The invitation included the federally required disclaimer, "Paid for by The Fund for Louisiana's Future. Not authorized by any Candidate or Candidate's Committee."

Under the Act, Federal officeholders may not solicit, receive, direct, transfer, or spend funds in connection with Federal and non-Federal elections, unless the funds comply with the Federal contribution limits and source prohibitions.⁵ However, the Act and Commission regulations expressly provide that Federal officeholders may attend and be featured guests at events where funds outside the Act's limits and prohibitions are solicited.⁶ Commission regulations further provide that a Federal officeholder may consent to the use of his or her name in publicity for a non-Federal fundraising event. If the publicity contains a solicitation outside the amount limitations and source prohibitions of the Act, the Federal officeholder must be identified in a manner that is not specifically related to fundraising, such as "featured guest," "honored guest," and "special guest."⁷ In addition, the publicity must include a disclaimer that the solicitation is not being made by the Federal candidate or officeholder.⁸

The "Louisiana Bayou Weekend" invitation did not contain a solicitation outside the amount limitations and source prohibitions of the Act. The invitation specifically requested \$5,000 per person, the amount a federal PAC can receive per year. Thus, the request complied with the amount limitations and source prohibitions of the Act. Moreover, the disclaimer notifying recipients that the PAC is registered with both the FEC and the Louisiana Board of Ethics and may accept contributions of up to \$100,000 per election cycle from individuals, corporations, and other organizations did not constitute a solicitation by either FFLF or Senator Vitter. The invitation clearly requested \$5,000, not \$100,000. To claim that notifying potential donors of their legal obligations under both state and federal law constitutes an impermissible

⁵ 2 U.S.C. § 441(e)(1)(A), (B).

⁶ 2 U.S.C. § 441(e)(3); 11 C.F.R. § 300.64.

⁷ 11 C.F.R. § 300.64(e)(3)(A).

⁸ 11 C.F.R. § 300.64(e)(3)(B).

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solicitation is not only counterintuitive, but wholly devoid of any legal basis. There is no statutory or regulatory authority supporting Complainants' theory that notifying recipients of the amount a committee may legally accept, whether under federal or state law, constitutes a solicitation.

Finally, even assuming the invitation contained a solicitation for non-Federal funds, the absence of a disclaimer stating that Senator Vitter was only soliciting funds that comply with the federal limits and source prohibitions, does not somehow convert a solicitation by FFLF into a solicitation by Senator Vitter. The Commission has clearly stated that "identifying a Federal candidate or officeholder as serving in a role not specifically related to fundraising does not, by itself, result in a solicitation by the Federal candidate or officeholder."⁹ The purpose of the disclaimer is to make it "unmistakably clear" that the Federal officeholder is not soliciting funds outside the amount limitations and source prohibitions, and to ensure that the persons who receive the publicity understand that the solicitation is being made by persons other than the Federal officeholder. The lack of a disclaimer does not change who is making the solicitation. Thus, as a "special guest," Senator Vitter was not making the solicitation, regardless of whether the invitation included the disclaimer.

FFLF Website

The Complaint also alleges that Senator Vitter solicited nonfederal funds on behalf of FFLF because photos of him appear on FFLF's website. The Complaint's allegation is based on the size and placement of the photos, the fact that Senator Vitter is the only candidate featured on the FFLF website, and that the website does not contain a disclaimer stating Senator Vitter is only soliciting funds that comply with the Act.

As previously explained, FFLF is a separate, independent political committee and does not coordinate its activities with Senator Vitter or the agents of Senator Vitter's senate or gubernatorial committees. FFLF's website does not reference an election or otherwise expressly advocate the election or defeat of Senator Vitter or any other clearly identified candidate. Rather, the homepage of the FFLF website includes a photo of Senator Vitter and discusses his proposed legislative amendment to "cut health subsidies for congressional and senior executive branch officials" and exhorts readers to sign a petition supporting Senator Vitter's amendment. The homepage includes a "Contribute" button that links to a page where donors can make an online contribution to FFLF. Although both pages include a picture of Senator Vitter, there is no statement provided by Senator Vitter, or in his name, that directs visitors to the link or that urges them to contribute.

The Commission has previously addressed the appearance of a Federal officeholder's photo on a website that solicited funds outside the amount limitations and source prohibitions of the Act. In MUR 5711 (Angelides), the Commission found no reason to believe that two Democratic Senators and a Democratic Congresswoman violated the Act by consenting to the

⁹ See Participation by Federal Candidates and Officeholder at Non-Federal Fundraising Events, 75 Fed. Reg. 24375, 24382 (May 5, 2010).

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use of their photos on a website that solicited funds in amounts that exceeded the federal limits and source prohibitions. In that matter, the Federal officeholder's photos appeared on the homepage of a California gubernatorial candidate's website next to a "contribute" button that linked to a contribution page.¹⁰ The Commission concluded the homepage was not a solicitation because it was not dedicated to making contributions. Therefore, the display of the Federal officeholder's photos did not constitute a solicitation by Federal officeholders.

The Commission distinguished the homepage from the contribution page on the basis that the contribution page constitutes a solicitation while the homepage (without more) does not.¹¹ It was "significant" to the Commission that the Federal officeholders had not "approved, authorized, agreed or consented" to the use of their photos on the contribution page.¹²

Significantly, Senator Vitter did not "approve, authorize, agree to, or consent" to the use of the photo by FFLF. FFLF obtained the photo from a publicly available source. As an independent expenditure committee, FFLF does not need to obtain the consent of Senator Vitter to post a publicly available photo on its website. Thus, applying the rationale of Angelides, the use of the photo by FFLF does not constitute a solicitation by Senator Vitter because he did not consent to its use. Under Complainants' flawed rationale, Senator Vitter would be equally culpable for the placement of his picture on the Democratic State Central Committee of LA's cyber-squatted website, VitterForGovernor.com,¹³ where the Democrat state party attempts to raise money using Senator Vitter's image. Of course, he is not because he did not "approve, authorize, agree to, or consent" to the use of his photo on the Democrat state party's website.

Even assuming *arguendo* that Senator Vitter did consent, which he did not, a photo alone does not constitute a solicitation by Senator Vitter. The mere appearance of a Federal officeholder's photo on a third-party's contribution page, without more, does not impute the solicitation to the Federal officeholder. Commission regulations define what it means "to solicit" as "to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value."¹⁴ To constitute a solicitation, the communication "must contain some affirmative verbalization, whether oral or in writing."¹⁵ This is an objective test that may not hinge on the "subjective interpretation of the Federal candidate's or officeholder's communications" or the "varied understandings of the listener."¹⁶ Thus, to constitute a solicitation by a Federal officeholder, whether explicitly or implicitly, there must be an "affirmative verbalization" by the officeholder. In other words, the Federal officeholder must say or write words. The FFLF contribution page does not provide any statement by Senator Vitter urging persons to make a contribution in any

¹⁰ The gubernatorial candidate's "contribute" page expressly stated that individuals, businesses, corporations and unions could contribute up to \$22,300 per election. See (Angelides), Statement of Reasons at 2.

¹¹ *Id.* at 5.

¹² *Id.*

¹³ See Printout of VitterForGovernor.com (attached as Exhibit C).

¹⁴ 11 C.F.R. § 300.2.

¹⁵ See Definitions of "Solicit" and "Direct," 71 Fed. Reg. 13926, 13929 (Mar. 20, 2006).

¹⁶ *Id.*

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amount. Although the contribution page constitutes a solicitation, it is a solicitation by FFLF, not Senator Vitter.

Conclusion

In once again presenting politically motivated and factually unsubstantiated arguments, Complainants identify "no source of information that reasonably gives rise to a belief in the truth of the allegations presented." The Complaint should therefore be immediately dismissed. *See* MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001).

The Campaign Legal Center and Democracy 21 in this matter have yet again invoked an administrative process as a means to continue their thinly veiled assault on the First Amendment and its political opponents' constitutional rights of political speech. The Complaint is based on bogus frivolous legal theories and malicious speculation. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and immediately dismiss it.

Thank you for your consideration of this matter, and please do not hesitate to contact me directly at (202) 572-8663 with any questions.

Respectfully submitted,



Charles R. Spies
James E. Tyrrell III
CLARK HILL PLC

*Counsel to Respondents The Fund for Louisiana's
Future, Courtney Guastella, and Lisa Spies*

Enc.

Exhibit A

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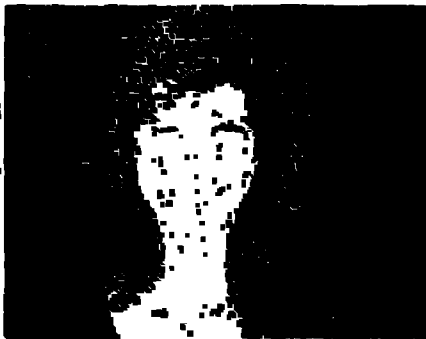
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NOVEMBER 23, 2012 6:26 PM

4 COMMENTS



Lisa Spies, Director of Jewish Outreach for Mitt Romney. Photo Courtesy Lisa Spies.

When Mitt Romney set out to woo Jewish voters, he needed access to the top Jewish donors and leaders. But how?

Romney got himself a *shadchan*—Jewish matchmaker—of the political variety.

Her name was Lisa Spies. As Romney's Director of Jewish Outreach, she was at the center of the battle for Jewish votes. Spies

remained out of the media spotlight during the campaign, but she shared her thoughts publicly for the first time in the following exclusive interview with JNS.org special contributor Ari Werth.

The Mission

Werth: Why did Romney ask you to help him with the Jewish community?

Spies: As a Jewish woman, I'm involved with the Jewish community. I grew up in a kosher home in Milwaukee, and I go to services with my husband at Chabad of Washington, D.C. Before joining Romney's staff, I helped raise millions for GOP senators and congressmen. I've also been a consultant to the Republican Jewish Coalition.

Werth: You were one of Romney's first staff members. What was your initial role?

Spies: I was hired as Jewish outreach director about two years ago. At that point, no other primary candidate had a paid staffer focused on the Jewish community. The first goal was to coordinate meetings and conference calls with Jewish leaders and supporters. We reached out to organizations such as AIPAC (American Israel Public Affairs Committee), ZOA (Zionist Organization of America), OU (Orthodox Union), and RJC (Republican Jewish Coalition).



Mitt Romney with his Director of Jewish Outreach, Lisa Spies. Photo: Courtesy Lisa Spies.

Werth: Did Romney want to know something specific?

Spies: Yes, he wanted to really understand the different groups within the Jewish community. He didn't lump everyone together. He got to know there was Chabad, Orthodox, Conservative, and Reform. We reached out to all of them.

Author:



Ari Werth

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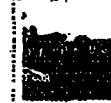
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Werth: So Romney was very interested in understanding the Jewish world?

Spies: Yes. In fact, one of Romney's favorite gifts was a campaign button that said "Vote Romney—It's a Mitt-zvah!" Many campaign staffers displayed that button on their desks—Christians, Mormons. They didn't know what the word meant at first, but they asked. I love that they wanted to learn about the word and about kosher food.

Werth: Why their interest in kosher?

Spies: I made sure there was glatt kosher food and prayer services at every donor retreat. We even had to assign an intern to guard the kosher table because the campaign staff liked the kosher food better! Once, Romney stopped by the table and grabbed a cookie. I said, "Governor, this is kosher." He said, "Oh, I love kosher cookies!" He wasn't kidding. Before the next event, he asked me if I could get that kosher caterer to come back.

Werth: Did Romney learn anything new about the Jewish vote?

Spies: We had a national conference call with rabbis and Romney assumed Israel would dominate the conversation. It turned out the economy was a major concern. Romney saw that Jewish Americans prioritized domestic issues just like everyone else. That was reflected in our messaging to the community.

Werth: I'm sure there were many memorable moments during the campaign. What was the most touching moment for you?

Spies: Romney delivered a speech outside in Jerusalem, with the walls of the Old City in the background. The sight brought tears in my eyes. I was so touched that he cared enough to be there. Some advisors didn't want him to go to Israel at that point. They thought the trip was too politically risky, but Romney didn't ask for their approval to go. And Romney didn't ask anyone about closing his eyes and putting his hand on the Western Wall. It all came from his heart.

The Players

Werth: After the primary, you were involved in launching the Jewish Americans for Romney Coalition. What did this team of VIPs do?

Spies: Our Jewish coalition was amazing. Nobody was just a donor. They were active as surrogates or as grassroots organizers. Some reached out to synagogues. We had conference calls for Jewish voters in target states.

Werth: Who on the coalition was the most involved?

Spies: We had talented leaders like Tavi Troy [a former Bush Administration official] who was the go-to guy for Jewish-related press and policy issues. Tavi was very, very important to us. Also, [former UN Ambassador] John Bolton and Senator Norm Coleman were essential surrogates and advisors.

Werth: Who were the major Jewish donors backing the campaign?

Spies: New York attorney Phil Rosen hosted our first fundraiser for the Jewish community. It's hard to name everyone else, but just a few of the many people who went above and beyond are Mel Sembler, Sam Fox, David Flaum, Cliff Sobel, Ned Siegel, Bobbie Kilberg, Sander Gerber, Lew Eisenberg, Wayne Berman, Simon Fallie, Randy Levine, and Sheldon Adelson.

Werth: Adelson donated over \$50 million to super PACs supporting Romney and other Republican candidates. Critics say that's too much influence by one person. What's your response?

Spies: Sheldon and Miriam Adelson are doing great things for Israel and for the Republican party. When you walk into Yad Vashem, you see his name on the wall as the major benefactor. When young Jews see him, they thank him for their experience in Israel through Birthright. There are many billionaires these days, but only a few that give so much to the causes that they believe in. Whether you agree or disagree with him, you have to say he's very generous.

The Results

Werth: In addition to the Romney campaign's Jewish outreach, the Republican Jewish Coalition rolled out an unprecedented \$5 million campaign to sway Jewish voters who voted for Obama in 2008. What was the impact of both efforts?

Spies: They were successful. Romney received 32 percent of the Jewish vote, and McCain got 22 percent in 2008. A 10-point increase is a big difference.

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Werth: Why did seven out of 10 Jews vote for Obama?

Spies: Jews follow tradition, even in politics. And the tradition, for various reasons, is to vote Democrat. Next, we need to explain why it makes sense to break that tradition. It's a slow process.

Werth: And what is that GOP message to Jewish voters?

Spies: The Republican party is about being a nation of makers, not takers. We should be proud to work and succeed. We believe in individual empowerment and limited government. The Republican party respects religion and is not ashamed to use the word "God" or to protect the sanctity of life.

Spies says she will continue fundraising efforts for the causes she believes in. But right now there's something more urgent on her agenda. "I'm going to get some rest!" she says.

Ari Werth is a commentator, journalist, and Jewish community leader. Follow future stories [here](#). This interview was edited for publication.

4 COMMENTS

Roddy

December 7, 2012
12:24 am

"... a philosophy that is as empty as her own rhetoric"

Charles, you are completely anti-semitic

Michael Subarsky

December 5, 2012
1:09 am

Great interview. Very informative.

Charles Hoffman

December 6, 2012
8:26 pm

She's an effective and arduous spokesperson for a philosophy that is as empty as her own rhetoric.

It's about Israel, why the need for the pseudo-conservative financial minority.

But for the electoral system which aimed to amplify the votes of 50k older Jews in Florida, Romney would sooner have waited his money in Switzerland than spend 20 minutes in Israel with the casino boss Adelson

Cal Greenburg

December 6, 2012
9:09 pm

Charles you are completely wrong.

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Exhibit B

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5/12/2014

Female Fundraisers Aid Super PACs

Newsweek

Female Fundraisers Aid Super PACs

By Michelle Cottle | 7/15/12 at 8:28 PM

The world of political fundraising just got a high-profile shot of estrogen.

July 11 brought the launch of the first-ever lesbian super PAC. Backed by celebs like actor Jane Lynch and tennis legend Billie Jean King, the group aims to raise \$1 million to support candidates (of both genders) committed to LGBT rights and women's reproductive freedom. The launch sparked international buzz and prompted one Beltway blogger to cheer the entry of the "girls only" group into what is still seen as something of a boys' club. But while the same-sex angle is novel, women have long played at the highest levels of the buck-raking game. Megadonors like Foster Friess and Sheldon Adelson may get all the attention, but when it comes to the world of professional fundraising, the money machine runs on girl power.

"It's mostly women, and we all kind of joke about that," says Lisa Spies, a veteran GOP fundraiser and the finance director of Women for Romney Victory. "We're all friends with each other too," she adds. "It's a very small world."

The same is true over on the Democratic side (yes, professional fundraising is as polarized as the rest of the political world), says Bill Burton, a senior strategist with Priorities USA Action. Indeed, when the pro-Obama super PAC needed to up its fundraising prowess, Burton & Co. brought in a trio of moneywomen: Diana Rogalle, Susan Holloway Torricelli, and Kathleen Daughety. Former EMILY's List chief Ellen Malcolm is also lending a hand.

The pros tend to fly under the radar to avoid overshadowing clients. Says Bernadette Budde, a VP at the Business Industry PAC, "The fact that nobody ever heard of these people outside the inner core of politics is what made them successful."

Then there are the big-league amateurs: the volunteer bundlers who write checks and collect them from their networks of rich friends. Until recently, there were few gals operating at the six-figure level. One hurdle was that women were hesitant to make major

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Female Fundraisers Aid Super PACs

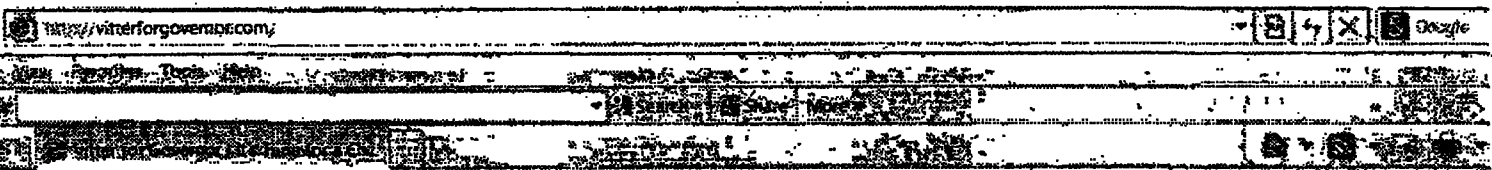
donations themselves, posits lobbyist Heather Podesta, one of the Dems' A-list bundlers. "The guiding principle is, to get money you gotta give money," she explains. "I think sometimes women can be cautious on the giving front."

Podesta entered the game during the 2004 cycle when a friend called her and said, "I need you to raise \$10,000" for John Kerry. "I started asking everybody because I was panicked," recalls Podesta. Next thing she knew, Podesta was gunning for a quarter million to snag a spot on the DNC finance committee. After being known mostly as the wife of prominent lobbyist Tony Podesta, she says, "it was a great way to get a seat at the grown-up table."

These days, more and more women are looking to get a seat at that table. "I've seen a notable increase between 2004 and 2012," reports Bobbie Kilberg, one of the GOP's top bundlers. (Kilberg raised around \$1.3 million for John McCain in 2008 and is already "closing in" on \$1.9 million for Romney.)

One thing the moneywomen on both sides of the aisle can agree upon is that this is great news. "If they want to be involved in the political process," says Podesta, "women need to play with the big boys."

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Posted on April 30, 2014

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